PLAG LIEUT. SEARS DIFFERS FROM CAPT, COOK.

He Feared Ramming, and Says the Brook lyn Turned to the Eastward After the Leading Spanish Vessel Had Turned to the Westward—He Denies a Story That Has Gone the Rounds of the Navy That He Sald: "For God's Sake, Don't Discourage Rim (Schley); It Was All We Could Do to Work Him Up to That"-Has a Poor Memory as to His Conversations With the Com-modore—Capt. Cook Tells Schley's

by the testimony of Lieutenant-Com-Leutenant to Admiral Schley in the Spanish | by war. To a question by the court which we directed our course toward the en in investigating Schley's conduct in that to the harbor. The Teresa appeared conflict, Mr. Sears said that the Brooklyn began to turn to the eastward after the leading Spanish vessel had turned to the tweetward. This is directly contrary to the statement of Capt. F. A. Cook, the Brooklyn's commander, to the court vesterday, that the "loop" order was given because the Spanish ships appeared to be heading straight for the interval between he Brooklyn and the Texas and the helm Schley's flagship was therefore put to port to keep the enemy from cutting her from the other American vessels

Admiral Schley said in his defence to the Senate that the Brooklyn was getting be-senate that the Brooklyn was getting be-and quartermaster to meet that uncer-tainty. She turned after she had passed American ships and the loop was made to get the Brooklyn out of this position, in which she would have blanketed the fire which she would have blanketed the fire of the rest of the American fleet. Lieutenant-Commander Hodgson, the Brooklyn's Ellis, who was a trained observer with navigator, said the order was given betoo close to the Spaniards.

The testimony of Mr. Sears was favorble to Admiral Schley with regard to the blockades at Cienfuegos and Santiago. and the purpose of Admiral Schley in firing on the Colon on May 31. He spoke en chusiastically of Schley's courage in battle He said that there was 600 yards' distance between the Brooklyn and the Texas when the Brooklyn turned in front of the other ship and there was no danger of collision. He also denied the story that has been going the rounds of the navy since the Spanish war that when there was some criticism of Schley in the wardroom of the Massachusetts after the reconnoissance of May 31, because that and the other ships were not allowed to go in close enough to Santiago to sink the Colon, he.

"For God's sake, don't discourage him

Mr. Sears was cross-examined minutely by Judge Advocate Lemly, but his memory was poor in regard to most of the things which he was asked. He had discussed the retrograde movement with Schley, but did not remember any details of their conversations, and his recollection was equally at fault concerning half a dozen talks with his superior about coal-ing the Flying Squadron. Capt. Cook, who was on the stand again

for a short time to-day, had a better memory in regard to what he said to Admiral Schley t the retrograde movement. The first he heard of it, said the Brooklyn's commander, was when he was told of the signal hoisted by Schley's direction, for the ships to go back to Key West. He went to Schley and asked him what it meant and Schley said the responsibility was his alone and be must act for himself. He was therefore bear a home coaling base if the weather handled to give a sheer toward her. she did, I think, twice. Then she turn to coal at a second at going back toward Key West, so as to be did not moderate enough to permit him to coal at sea.

Most of the day was spent in the examina tion of Mr. Sears. He said that the Brooklyn was only 900 vards from the Viscava when the loop was made. Capt. Cook said vesterday that the distance was between 1,500 and 2,000 yards. Mr. Sears was not positive who gave the order to make the turn, but he thought that Schley said: "Hard aport" and Cook responded.

"It is hard aport." The second Spanish ship, Mr. Sears thought, looked as if she intended to ram the Brooklyn, and Admira Schley assented to a suggestion to that effect at the time. It was then that the order to put the helm hard aport was given, the witness said. This is in apparent contradiction to his statement that the Spanish ships had turned west before the Brook. lyn turned east, but the seeming inconsistency is explained to some extent, by another statement of Mr. Sears that the Brooklyn's turn really began from the moment she started in toward the harbor entrance

PLAG LIEUTENANT SEARS CALLED. Lieutenant-Commander James H. Sears, ow at the Brooklyn Navy Yard, who was now at the Brooklyn Navy Yard, who was Flag Lieutenant to Commodore Schley the war with Spain, took the stand after other witnesses had certified to the report of their testimony. Mr. Rayner said he would examine him with reference to the specifications of the precept, taking each

Sears said that he knew nothing of any code of signals between the American ships and insurgents ashore at Cien fuegos. He had arranged with the captain of the British steamer Adula, which was permitted to enter Cienfuegos harbor, to come out the next day and be boarded come out the next day and be coarded. by somebody who spoke Spanish who could find out from the Cuban refugees on the ship whether Cervera was in the harbor. But the Adula did not come out. Mr. Sears said he thought that the Hawk, which reached Cienfuegos on May 23, was the only vessel that brought the McCalla memor-andum. In maintaining the blockade there, the day distance was about four but upon one occasion the ships hed within a mile of the harbor At night picket boats were placed inside the line of big ships. In going to Santiago, the sea was heavy on the night of the 24th of May, when the squadron left, said Mr. Sears, and the squadron was delayed by the slow progress of the Eagle. Delay was caused, also, by seeing a sus-Delay was caused, also, by seeing a sus-pictous sail and repairs to the collier. "That is all I remember that caused delay," the witness added. Mr. Raynor asked Mr. Sears if any at-

tempt had been made to coal the Texas before May 27 and the answer was in the

In the Santiago blockade, the witness testified, the Marblehead and Vixen were used as picket boats. The distance from ahore varied. It was from three to five or six miles in the day and closer at night

or six finites in the day and choser at higher and in thick weather.

Of the firing on the Colon on May 31 he said he reached the conclusion from that reconnoissance that the Santiago batteries were stronger than he had thought. Before the reconnoissance Commodore Schley told him that he wanted to find out what

the Spanish batteries were and had fixed the distance for firing at 7,000 yards. The witness went on beard the Massachusetts that day with Schley. The witness said the ships passed twice in front of the harbor entrance, firing as they went by, and at the end of the second run the Commo-dore said by was satisfied with the result

of the recommossance.

In his previous testimony LicertenantCommander Potts of the Massachusetts
had said that Commodore Schley showed

him were conspicuous objects in their during that period we did not coal. On all imagine any conduct in battle more admirable, brave, cool and enthusiastic than Commodore Schley's on that occasion.

Mr. Sears, in answer to a question as to not hear any conversation between that officer and the Commodore.

HIS STORY OF THE BATTLE. Q. Coming to the day of the battle-the A. I was in my room when the men were called to quarters and I heard the cry of the executive officer to clear ship for action.

I ran to the quarter deck and took a rapid glance aloft to see if the prescribed signal "Enemy is escaping" was up and saw that it was. I met the Commodore on the quarter deck he directed to signal "clear ship the deck, he directed to signal "clear ship the for action" and "close in" all of which were made. I got to the platform around the

The Brooklyn's famous loop in the battle by the testimony of Lieutenant-Commander James H. Sears, who was Flag vera's vessel that came out proved to be the flagship Toresa, Cervera's vessel. She was steering south southwest, directly on our bearing as

the westward and I got a view of the next ship following in her wake. It was my observation that the Brooklyn was then ship following in her was then observation that the Brooklyn was then held up to meet the second ship. Of course, we ported helm. The second ship crossed the wake of the first ship as she turned to the westward. I spoke to the Commodore and said that the second one was the course of the course o going to try and ram us. I think he assented. At any rate the Brooklyn was headed toward her and she appeared to me to be uncertain in her course. The me to be uncertain in her course. The Brooklyn was handled by her captain the southward of the Teresa's wake and to the southward of the letter then it was generally remarked on the tower bridge that all the Spanish vessels to the west. Just the stadimeter, came to me on the platform use Schley thought the ship was getting and said in presence of the Commodore that the range was taken by the stadimeter and was 900 yards from the Viscaya. I immediately took a special view of the Viscaya and my judgment confirmed the stadimeter. I said to the Commodore: "I think we are about our tactical diameter from that ship now." He said: "I think

Then the order was given: "Hard a-port. I am not positive by whom it was given.
I think that the Commodore said. "Hard a-port," and that Capt Cook said: "Mard a-port," and that Capt Cook said: "We are hard a-port." The helm was kept hard a-port and the ship swung rapidly in her turning circle. When the order was given I looked to the next vessel of our fleet, the Texas. In my judgment we were com-pletely clear of her. As we turned we passed well clear of her.

After the turn was completed we found after the turn was completed we found ourselves abreast or perhaps a little back of the beam of the leading Spanish vessels with a slowly converging course toward the leading ship. The smoke at that time was very dense, but there were two ships in plain sight of us, and occasionally we could get a plain glimpse of a third. Shortly afterward the smoke lifted to the rear and I saw the Oregon coming toward us-also got a momentary glimpse of the re-mainder of our fleet and of the whole of the Spanish fleet. I saw the Spanish torpedo boats, and by the Commodore's orderly I sent word to have the after gunners look out for them. At that time I saw the Vixen on our port side, and I knew that she would be a satisfactory protection against torpedo attacks. The course of battle was con-tinued on these lines with varying distances. I think that the distances were varied more by the Spanish vessels than by our own. It is my impression that we kept a very straight course. Our navigator

bridge, up and down, trying to maintain the course to the best range.

For about ten to twenty minutes w For about ten to twenty minutes we were hotly engaged with those three vessels. The Oregon was astern of us: the Viscaya astern of her. The Viscaya began to blaze up at some distance off and finally turned in toward the shore, but previous to that she appeared to make a change in her helm to come out toward the Brooklyn, which was taken by us to mean an attempt to ram us and the Brooklyn's helm was into the shore. I was in doubt as to whether she had hauled down her flag and the Commodore spoke of the advisability of sig-nalling to the Oregon and Texas to ensure the surrender or destruction of the Vis-caya, but after a moment's thought he said: "Philip will know enough to look out for that," and then we proceeded.

Mr. Sears ended with a description of the chase of the Colon. He said that when a shot from the Oregon went over the Colon and a shot from the Brooklyn appeared to pass over her wake, she turned

THE SCHLEY DESPATCH OF VICTORY Mr. Rayner made an ineffectual effort to get in evidence the despatch which Schley sent ashore by Mr. Sears to be filed at Siboney, reporting that the Spanish fleet had been defeated. It was this despatch which Lieutenant-Commander Staunton. Admiral Sampson's assistant chief of staff, who met Mr. Sears in the Siboney cable office, objected to having filed and, instead, filed Admiral Sampson's despatch, beginning: "The fleet under my command." Admiral Dewey said the Court thought that as this despatch had not

been sent it should not go in.
"But suppose Commodore Schley was
prevented from sending it?" asked Mr.
Rayner. are not prepared to go into that,"

"We are not prepared to so had asid Admiral Dewey
"But suppose I offer evidence that he was prevented from sending it?"

"The Court is not here to answer questions. We are not in the witness box. Commodore Schley's report will be in evidence; that is all that appears to be necessary." Admiral Dewey remarked, and Mr.

Rayner sat down.
To Mr. Rayner Lieutenant-Commander Sears said that when the Brooklyn began Sears said that when the Brooklyn began her turn there appeared to be no possi-bility of a collision with the Texas. There was a wide gap of water between the two ships. When the Brooklyn turned, the ships might have come nearer, but when he saw the Texas they were not nearer than 600 yards. He could not see her starboard side,

When the battle of July 3 began, Brooklyn was in her usual position, 6,00 yards from the Morro, Mr. Sears said. "Did Commodore Schley take refuge be hind the coming tower in the reconnais-sance of May 31? asked Mr. Rayner. "He was behind and in front, indiffer-

Mr. Sears said he was with Commodore Schley in five engagements, and to a ques-tion as to the bearing and manner of Schley on those occasions, he answered:

His bearing was a model for anybody, worthy of imitation always. Under fire his laculties appeared to be always with on. He was under no excitement, always col. He frequently put himself in ex-cosed positions and I had to ask him many

under cross-examination by the Judge Advocate Mr. Sears teld of a conversation with Commodore Schley about coaling. The general drift of it was the importance of a coal supply in time of war, and particularly the difficulty of coaling from a supply with prejecting structures like the ship with projecting sponsons like the Texas as compared with such ships as the Brooklyn

COALING ON THE VOTAGE. Capt. Lemly followed this up with an

important line of questioning
From May 22, when you arrived at
Genfuegos, until June 1 (the day Sampson reached Santiago) what days did you not coal some vessel of the Flying Squadron?" We did not coal fr

We did not coal from the evening of May 24, when we left Cienfuegos, until we coaled the Texas and Marblehead on the evening of May 27. We couled every day except those days. And you were under way on all of those

wests.

Mr. Sears, in answer to a question as to what he had said to Commodore Schley about the retrograde movement, explained that Commodore Schley allowed him to express his opinion freely on every ocmodore asked to express an opinion. Com-modore Schley said he thought that as he had seen of the weather conditions and from what he had been told, these con-ditions would continue, and the Texas was very much reduced in coal, having only enough then to get to the nearest bome port.
"I'll remind you that what you said to

the Commodore you have not told, Capt. Lemiy.

Mr. Sears hesitated and then said: "I
think that being a young officer, in his
first war, I was a little hot-headed and my

first war, I was a little hot-headed and my judgment was not good.

"How old are you, Mr. Sears?"

Admiral Dewey stopped the witness from answering and then, after whispering with his colleagues, Rear Admirals Benham and Ramsay, he announced that the Court would retire. The three Admirals came back in a few minutes and Admiral Dewey let Capt. Lemiy ask Mr. Sears how much naval service he had had, but not how old he was. Mr. Sears said his service had been thirty years. how old he was. Mr. S had been thirty years.

BEARS CAN'T REMEMBER.

When Capt Lemly asked the next ques-tion Mr. Rayner interposed before the witness answered. Capt. Lemly wanted to know about Mr. Sears's conversation with Commodore Schley about coaling Mr. Rayner said that if it was intended to show that a junior officer had given advice which Commordore Schley did not take, Schley should not be affected, but he had no objection to the witness stating a mere conversation Capt Lemly agreed and the witness answered: I don't think I can testify to any particular conversation. I said I had many and frequent talks with the Commodore on

and frequent talks with the Commodore on the general topic of coaling."

To a question as to his conversations with Schley about the retrograde move-ment, Mr. Sears said he re-alled the gen-eral tenor of them. He had been requested by the Commodore to express an opinion about this and other things.

"Did you or did you not talk with Com-modore Schley about the retrograde move-ment?"

"Undoubtedly "

"Did you or he open it?"
"I don't remember any part of the conversations. There were half a dozen conversations." Sears said he did not remember

what he said in regard to the retrograde movement or what Commodore Schley Commodore Schley, he thought, told him to make the signal for the squadron to re-turn to Key West. He did not recall say-ing anything when he was told to make the signal

To other questions he said there were no written orders of Commodore Schley's providing for all contingencies of battle, and he did not know to his own knowledge of any such orders for any contingency, but it did not follow that he would know, because he was Flag Lieutenant.

The reconnoissance of May 81 was then taken up and Mr. Sears said that he was told by Commodore Schley that the range would be 7.000 yards.

would be 7,000 vards. DENIES ALLEGED WARDROOM STATEMENT. \*Did you have any conversation with Commodore Schley when he told you that?\* Capt. Lemly asked.

"Did he say anything else?" "Did you not state otherwise in the ward-

Mr. Sears interjected: "I have stated---." but Admiral Dewey stopped him, because
the conversation had not taken place in
the presence of Commodore Schley.
Capt Lemly and Mr. Hanna argued
that this was a question that did not come
under the Court's ruling, but was intended
to develop whether the witness had stated
otherwise than he had stated on the stand therwise than he had stated on the stand. Mr. Rayner agreed that this was a proper question and Capt. Lemiy asked: "I want to know if you did not state other-

wise about the range in the wardroom of the Massachusetts on May 31?" "I have no recollection of stating any-ning else," responded Mr. Sears.
"Are you positive?"

wardroom of the Massachusetts: For God's sake, don't discourage him. It was all we could do to work him up to this?' "I never said it!" was Mr. Sears's answer, in a voice almost inaudible. You never said it?

"You have spoken of a message that was sent to Admiral Sampson about smoke or signal fires on the shore on the 2d of July. By whom was it sent?"

I do not remember "I do not remember."
"Was it thought from those fires that
the Spanish fleet was coming out?"
"I don't remember that we thought that.
But there was a general uneasiness. The
Commodore felt that the situation was tense and that something was going to happen and that some preparation should be

made to meet it."
What preparation was made on the Brooklyn to meet this unusual contingency?
"The Brooklyn was always ready." think I myself stayed up all night, but I do not remember of any particular prepara-

Mr. Sears said he did not recall how the Mr. Sears said he did not recall how the officers on the Massachusetts were dressed on the reconnoissance of May 31. The question that brought this answer was based on the statement of Leutenant-Commander Potts that Commodore Schley

Commander Potts that Commodore Schley said on that occasion that he and the other officers on the forward turret were very conspicuous objects in white and suggested getting down.

CAPT. COOK'S TALK WITH SCHLEY ON THE RETROGRADE.

When the court reconvened after recess Capt. F. A. Cook, the Brooklyn's Commander in the Spanish war, was called to the witness chair to certify to the correctness of his testimony yesterday. When he had done this he was asked a number of questions by the Court, the Judge Advocate ness of his testimony yesterday. When he had done this he was asked a number of questions by the Court, the Judge Advocate

"There was some conversation." Capt Cook answered. "Knowing that he was seeking coal—and he had turned to westward—afterward a message was brought to me that a signal had been made that we were bourd for Key West by the Yucatan Channel. I did not make the signal. The executive officer (Lieutenant-Commander Mason) saw me about the same time and I went in to see the Commodore. time and I went in to see the Commodore about it. I did not understand the signal and did not recollect that anything had been said about it. I wanted to understand it. I did not understand it. I asked him what the signal meant and he said in repty that he must coal the ships and he must seek some place to coal the ships, and he that he must coal the ships and he must seek some place to coal the ships, and he was going toward Key West until he could find an opportunity to coal from the collier and if he did not find that he must be near a coal base to keep the ships in coal I made some remark concerning the weather conditions, which I thought would be a little more favorable later. He said: 'Until I am able to coal from the collier I must keep within striking distance of coal.' Is it som thing to him about that time.

"Will you repeat the language used by each as yearly as possible?" interjected Care Lemby.

"Will you repeat the language used by each as yearly as possible?" interjected Care Lemby. 1s I som thing to him about that time "Will you repeat the language used by each as nearly as possible?" interjected

Capt. Lemiy
"Yes, I will," said Capt. Cook, and continuing: "That I recognized that he felt
the responsibility as no one else could and
the responsibility as no one else could and that it was a serious question. He answered to the effect that he recognized that fact, but that he must act in accordance with his judgment, whether right or wrong that personal consideration was of no account when the safety of the fleet was to be con-

sidered. That's about all I recollect
"Was anything said at any other time on
this subject between you and the Commodore?"

"Not except what I have stated in my And you were under way on all of those commander Potts of the Massachusetts had said that Commonder Schley showed great mental excitement during this firing and objected to standing on a turret when the Massachusetts was six miles from the Massachusetts was six miles from shore, because he and the officers with

To another question by the Court to repeat any conversation between Commodore Schley and himself in the battle, Capt

Cook said:

"At one time he spoke of the turning of one of the ships from the line—the Viscaya. I think it was. He said to me at one time 'Look out for torpedoes,' or 'torpedo boats, I think. I know that at that time the executive officer came from below and turned to him and said. 'Look out for torpede boats. I did not concern myself much about the torpede boats. He spoke frequently about cautioning the men at the batteries to fire steadily and slowly. He called out a number of times loud enough to be heard in the turret and on the lowe deck for officers to fire steadily.
was especially at a time when the were doubling on each other. He spoke to me a number of times, asking me if I could not edge in on her. I remember that distinctly, for I was anxious to keep a straight and steady course and believed gain by it

COMMANDER SEARS RECALLED COMMANDER SEARS RECALLED.

Lieutenant-Commander Sears was recalled when Capt. Cook left, and his crossexamination continued. To Mr. Hanna he said that he remembered seeing on the Brooklyn a memorandum of Capt. McCalla's brought by the Hawk on the morning of May 23. That memorandum begins: "A good landing place for troops has been found thirteen and a half miles west of Savinilla Point." Mr. Sears said that no effort had been made, to his knowledge, to find that landing place. He had seen find that landing place. He had seen the signal fires at night about seven miles to the westward of Clenfuegos, but no ef-fort had been made to answer them. He had not seen any mining operations at

Cienfuegos.
[Schley had written to Sampson that he had found the Spaniards busy mining

The Flying Squadron got ready to leave Cienfuegos shortly after 5 o'clock on the evening of May 24, said Mr. Sears. [Commodore Schley's report agrees with this. Capt. Cook testified that the squadron left after dark.] Mr. Hanna, the Judge Advocate's as-sistant introduced two important official

sistant, introduced two important official communications in evidence from Com-modore Schley to Commodore Remey, the Commandant of the naval base at Key West, and Admiral Sampson. One was dated "Off Cienfuegos, May 24, 1898," the day Commodore Schley left Cienfuegos. It shows that Commodore Schley, even after finding out that the Spanish fleet was not at Cienfuegos, decided to stay there another day. It indicates also that when the Flying Squadron started in the direction of San-tiago Schley did not intend to stop there, but to proceed to St. Nicholas Mole, Hayti, to coal his ships. This despatch follows

to coal his ships. This despatch follows in part:

I have ascertained from the insurgents that the Spanish fleet is not in this port. As it is not found practicable to coal the Texas from the coilier here, where there is so much swell. I shall proceed to Morro, of Santiago, being embarrassed, however, by the Texas's short coal supply and her inability to coal in the open sea. I shall not be able to remain off that port on account of general short coal supply of squadron, so will proceed to the vicinity of Nicholas Mole, where the water is smooth and I can coal the Texas and other ships with what may remain in ceilier. Will communicate with you from

Schley said that his ships had left Clen-fuegos at dusk on May 24. In the de-spatch from Commodore Schley to Ad-miral Sampson, dated off Cienfuegos, May 24, Commodore Schley said he was writing it at 6 P. M., several hours after he had at Cienfuegos and that he would leave for off Santiago on the following day. In his testimony Lieutenant-Commander Sears said that Commodore Schley made up his mind to leave Cienfuegos just as soon as Capt. McCalla brought the information that the Spanish ships were not there.

Mr. Sears was questioned with reference
to the statements in these letters. He

said he remembered the second letter, but no particular statement in it. "Do you know that the Commodore had under consideration delaying his move-ment toward Santiago until the 25th?"

"I don't remember."
Asked again what Commodore Schley Asked again what Commodore said to him on going aboard the Massa-chusetts on May 31, Mr. Sears said he did chusetts on May 31, a remark which Mr. not remember, except a remark which Hanna recalled to his memory, that Hanna recalled to his memory, that the Hanna recalled to his memory, that the ships were to be taken in "to pot the Colon."

Pressed by Mr. Hanna to say who had been commodore Schley's message, which the commodore Schley's message, which "Are you positive?"
"I am positive."
"I will ask you if you did not say in the wardroom of the Massachusetts: For wardroom of the Massachusetts: For the witness thought had been sent to the fleet on July 2, about the suspicious smoke the barbor, and by whom it was sent, in the harbor, and by whom it was sent Mr. Sears answered that he did not re-member, and he did not recall whether any warning signal was sent to the fleet "About this retrograde movement. "About this retrograde movement, I
want to ask you one question which may
serve to throw some light on the subject.
Did you have any conversation with Commodore Schley as to why he had selected
the Yucatan Channel for the return.

"From my conversations with Commodore Schley, I gathered that the Spanish

squadron had passed us in the night and gotten to westward of us. But that may have been my own idea.

have been my own idea."

"You have not stated clearly whether
that was the Commedore's idea.

"It may have been. I may have gotten
it from what I thought myself."

Under examination again by Mr. Rayner, Mr. Sears said that Commodore Schley had told him that Capt. Sigsbee had told Schley that he had not seen the Spanish fleet and did not believe they were in Santifleet and did not believe they were in Santi-ago. [Schlev saw Sigsbee on the day the retrograde movement from Santiago began. When Schley, in his defence to the Senate, quoted Sigsbee as Sears testified, Sigsbee wrote a letter denying that he had said to Schley that he believed the Spanish

and done this he was asked a number of questions by the Court, the Judge Advocate and Mr. Rayner.

"What conversation did you have with Commodore Schley about the retrograde either before or after he had given the order to return to key West?" asked Capt. Lemly.

"There was some conversation." Capt. Cook answered. "Knowing that he was seeking coal—and he had turned to westhe did not know that anybody had been he did not know that anybody had been sent from the squadron to examine the shore near Cienfueges with a view to accertain the practicability of landing; he specified the signals from the flagship during the battle of July 3 as "Clear ship for action," and "Close in"; he did not know whether the signals were answered, but he knew that they were obeyed; he knew of no orders during the blockade at Cienfueges except as to the order of formation. fuegos except as to the order of formation

MORE ABOUT BROOKLYN'S TURN. By the Court "Did the Maria Teresa

was a lard over and complete turn O. What were the relative positions of the Viscaya and the Brooklyn when the Brooklyn commenced but turn with the port helm? A They were on a line of bearing with the entrance, northeast by southwest. She came out on that line of bearing. Their relative positions, then, were 900 vards apart on a northeast and

Ships came out the Brooklyn's position was 6,000 yards southwest by west from the shore. How long had the Brooklyn been steaming when Yeoman Ellis told you that the Brooklyn was 800 yards from one of the Spanish ships? A That would be a more estimate.

under the order of the Commander-in-Chief, Admiral Sampson, there was a special signal provided, with instructions that it should be fixed as a warning. Mr. Sears, to a question by Capt. Lemly, said he did not recall a signal at 205 P. M.

on May 31, during the attack on the Colon:
"Do not go in any closer."
"Do you remember whether the Brook-lyn crossed the bows of the Texas?" The Court then asked another and im

portant question, designed to ascertain whether it was Schiey's signal or Samp-son's regular standing order that was obeyed by the American fleet on July 3, when it closed in on Cervera's ships.

Q. Did the vessels close up in obedience to the signal from the Brooklyn in the engagement of July 3, when the Spanish squadron was seen escaping, or was there a standing order to do so? A. It was a standing order that if the enemy attempted to escape, the squadron should turn in

and destroy is The court adjourned at this point.

In his testimony vesterday Mr. Joseph
Beale, formerly a Lieutenant on the Harvard, showed by his records that Sampson's despatch to Schley, saying positively
"Spanish squadron is at Santiago," had
been among the despatches delivered to
Schley on May 27, during the retrograde
movement. After receiving this messago
Commodore Schley continued on his movement toward Key West. The court adjourned at this point.

MONEY FOR NEW SCHOOLS. Board of Estimate Also Makes Appropriation for New Harlem Hospital.

Bonds to the amount of \$495,835 were authorized vesterday by the Board of Estimate for the erection of new schools and for improvements in existing school buildings. Many of the sums were for small contracts. The largest was for \$164,000 for the contract awarded to Rutan & Hemingham for the building of a high school at New Brighton, Borough of Rich-

The sum of \$275,000 was appropriated for the construction of the New Harlem Hospital on a site chosen some time ago at Lenox avenue between 136th and 137th Corporation Counsel Whalen submitted

an opinion upon the refusal of Contracto Lentilhon to excavate stone below a cor-tain depth on the New York Public Library site. Mr. Whalen said it was not clear that Mr. Lentilhon's contract required him to dig further than he had gone, and suggested that the shortest way out the difficulty would be to make a new ntract, the cost of which would be about

The Mayor, however, was not inclined to agree with Mr. Whalen's method of cutting the knot. "It would mean," he exclaimed, "that every time a contractor calls halt the city shall stand and deliver. is a bad precedent and I don't like it at

Comptroller Coler also thought that as the principle involved was important, the city should fight the matter out regardless of cost. After some discussion the question was referred to the Comptroller for further

THE PROGRAMME IN CUBA. Transfer of Government to Be Made After Election of Feb. 24.

WASHINGTON, Oct. 15. Gen. Wood, Mill-Secretary of War a long letter, telling of the final work of the Constitutional Convention on the island. He explains to Secretary Root that the convention, acting upon his suggestion, reduced the number of elections provided for in the Election bill and says that he has authorized the publication in the official Gazette of the Election law as adopted. One of the principal features of the letter relates to a visit to Gen. Wood by a committee from the convention for the purpose of reporting to him the con-

general elections has been set for Dec. 31 The election for President, Vice-President and senators will take place on Feb. 24 and after a full report has been made to the Military Governor of this election a date will be set for the assembling of Congress and later for the transfer of the government to the Cuban representatives

YALE AND SAMPSON'S DEGREE. Schley Inquiry Had Nothing Whatever to

Do With the Matter. New Haven, Conn. Oct. 15 - The New Haven Register to-night gives out a bit of Yale bi-centennial gossip with reference o the proposed honorary degree for Adto the proposed honorary degree for Admiral Sampson and in reply to those critics who have been circulating the report that it was poor taste on the part of the Yale corporation to select Admiral Sampson for a degree while the Schley case was on in Washington. The Register's comment is in reply to a correspondent:

"It may help our correspondent to know that it is a mere accident that the Schley inquiry will be in session when the degree is conferred on Sampson. It was determined upon and offered months before Schley asked for an inquiry and at a time

Schley asked for an inquiry and at a time when it was generally thought the con-troversy was dying a natural death. How-ever, Yale stands with President McKinley in its estimate of Admiral Sampson and has no excuses to offer."

NEWSBOY PICKPOCKETS.

Being Turned Out by the Hundred Dally, Says Magistrate Olmsted.

Arthur P. Curtis of 502 West 143d street thought he saw three newsboys in Cortlandt street near Broadway about noor yesterday working as pickpockets under guise of selling newspapers and he told Policeman Kehoe, who gathered them in. In the Centre street police court Mr. Curtis told all about the trick. The policeman added that one of the boys had confessed to him that the three were operating for a grownup pickpocket to whom they gave 25 cents out. gave 25 cents out of every dollar they made. Magistrate Olmsted held them un-der \$500 bail for their good behavior for They are turning them out by the hun-

dred every day over there in the Academy of Crime, the Tenth ward, on the East Side, said the Magistrate. Student Without Money Kills Himself.

LEXINGTON, Ky., Oct. 15 David Arnott of Woodford county, a member of the senior class at the State College, shot him self in the head with a revolver at the college dermitery this afternoon. Lack of mone with which to complete his course with which to complete his course assigned as the cause. He was 20 year



## that the enemy was coming? A. I do not know. It was believed that the Iowa gave the signal first. Q. Was that an alarm signal? A. Yes.

WROTE HOME FROM EUROPE ABOUT KILLING HIMSELF.

Left Here Suddenly in July and Was in London Only a Few Days - Wrote Home That the Errand He Went On Had Not Turned Out Well-An Investigation.

Lawyer Fred Eberhardt, who for several rears prior to last May was in partnership with John B. Pannes, the well-known German lawyer, the firm name being Pannes & Eberhardt, has disappeared. He went to Europe very suddenly last July, and the only word received since from him was a letter to his wife in which he spoke of killing himself. All attempts to find him since in London where he was then and in other places whither it was presumed he might have gone have been fruitless, and for over two months his family has been without word from him.

Mr. Eberhardt was formerly a clerk in Mr. Pannes's office in the Tribune Building. After that he went into business for himself Two years ago he and Mr. Pannes formed a partnership, but last April Mr. Eberhardt decided to go into business for himself again, and the partnership was dissolved on May 1. Mr. Eberhardt, after that, had his office adjoining Mr. Pannes's office and

Mr. Eberhardt was understood to doing very well. On July 29 he told his family and Mr. Pannes that he was going to London on business. He sailed on Kaiser Wilhelm der Grosse the next day All that he told his family or any one about All that he told his family or any one about the business was that it had something to do with the organization of a big corporation and meant a large profit for him if it went through. He said that at the outside he would not be gone more than three weeks and that he expected to be in London all that time. He left his address in London with his wife and Mr. Pannes and asked the lefter to write to him as to the outcome the latter to write to him as to the outcor of some business here which belonged

Mr Pannes did so and was surprised to have his letter returned from the address in London with the information that Mr. Eberhardt had left. Mrs. Eberhardt about Eberhardt had left. Mrs. Eberhardt about the same time received a letter from her husband in which he spoke of committing suicide because things had not turned out well. It was found that he had been in London only a few days and left word to have all mail sent to his wife. All attempts his relatives have made since to trace him after that have been unsuccessful.

A month ago Mr. Eberhardt's relatives began an investigation of his affairs here. This is still in progress.

Mr. Eberhardt's home is in Staplaton.

This is still in progress

Mr. Eberhardt's home is in Stapleton,
Staten Island, where his wife and child are now. He has a brother who is a chemist and who lives at 229 East Fifty-eighth street and another brother who lives in

Mystic, Conn.

He was about 35 years old, was educated at the University of Michigan and came here about ten years ago.

BISSERT'S HARD FIGHT. Friends Ready to Offer Ball, Which Mr.

Gans Believes Would Be Forfelted. Justice William J. Gaynor sitting in the Supreme Court at White Plains reserved iecision yesterday in an argument on a writ of habeas corpus to aid Wardman George Bissert, who stands convicted and sentenced for accepting a bribe from the keeper of a disorderly house. While the argument was technically on habeas corpus, yet in the eyes of Assistant District Attorney Howard S. Gans, who appeared for the people, and almost all the lawyers in the court room, it was merely a plea to obtain bail for the convicted policeman, pending the decision of his appeals to the United States Supreme Court and the Court of Appeals of this State. Bissert was in court in the harge of Warden Hagen of the Tombe. He looked nervous and haggard. In the hall outside, his friend, Capt. Diamond, who is awaiting trial in Albany county, walked up and down, nervously chewing Rissert and Diamond refused to talk for

publication. Roger Sherman, who repre-sented them, said that a bondsman was resent who stood ready to furnish ball any amount the Court might name Justice Gaynor in the course of the hearng expressed strong disapproval of the Federal statute which practically nullifies all proceedings in the State courts pending an appeal to the United States courts. He an appear is a said that the statute, which had so long gone uncorrected, had worked more confusion throughout the country than any other law. Assistant District Attorney Gans law. Assistant District Afformer Gans at the opening of the hearing opposed the granting of tail to Bissert, maintaining that such an action by Justice Gaynor would be in contempt of the action of Justice Hooker of Fredonia, who had dismissed a certificate of reasonable doubt in the matter. Mr. Gans said also that such action by Justice Gaynor would be in contempt of the United Gaynor would be in contempt of the United States Court, which had ordered the prisoner held pending an appeal in the court of last

"Suppose," said Mr. Gana, "that this prisoner should forfeit the ball obtained through this court. Would not the warden of the Tombe then be placed in a very embarrassing position before the Federal authorities?"

Sherman said that it was not fair to keep the prisoner in custody for the two years before the United States Supreme Court would be ready to take up the case. He said that the constitution of the special jury law of this State, under which Bissert was convicted, was the main point to be argued at Washington. We shall not take the Constitutional

"I have just come from Washington," said Mr Gans, and I have learned that such a case as this might be fully considered and judgment rendered within three weeks from now. In view of the fact that this is now in view of the race that the most important conviction that we obtained in years, and also that de have their effect upon public morality is that no lenioney should be shown on are making this a political issue.

has kept within his rights." re tiaveor's ruling apperance of this request for 1' argued the Assistant District consists in the fact that we gney consists in the fact that we git this case against the entire pre-rand the Police Department. I vent-is say that any bail willingly would armished for Bissert and readily for-ding this man out of the way. I he forfeited bail, we would gladly gid of him, commented Justice Gayner finally said that if he was sure that case was ballable he would readily se the prisoner on bends. In view a conflict with the Federal ruling the dustice reserved decision, asking for briefs. The prisoner was remanded

New President of Travelers.

HARTFORD, Conn., Oct. 15 .- The successor James G. Batterson as president of the ravelers' Insurance Company is Syl seter C. Dunham. He was elected at a seeing of the directors last right. He as once editor of the New Britain read, and has since practiced law.

evenue to Accresy and Other Matters of Interes e more fully and intelligently handled THE SCN and EVENING BUE than by other ill medic's -40.



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The R. T. Booth Co., Ithaca, N. V. MORE DELAY IN DIAMOND CASE. Philibin Dissatisfied, and May Take Case

From Albany County.

ALBANY, Oct. 15 .- Capt. Thomas J. Diaand of the New York Police Department may be tried in another county than Albany. r before an extraordinary trial term of the Supreme Court here, convened by

District Attorney Philbin and Judge Rider Cady, of Hudson, with Frederick B. House, of New York, counsel for the acused, appeared to-day before Supreme ourt Justice Herrick. Justice Herrick said he would have to adjourn his present trial term sine die unless District Attorner Philbin wanted him to adjourn over until Monday, Nov. 18, when he would go on with the Diamond trial. He said that otherwise the trial would have to wait until the next trial term on Dec. 2, which will be presided over by Justice Chester "The people," said District Attorney Philbin, "desire a trial at the very earliest possible moment. Two of our most important witnesses are under the personal supervision of the District Attorney's office at many dollars' expense a day, and for several reasons they are not placed in the House of Detention for witnesses. Should there be a delay in the trial, the interests

it hard to get a conviction.

"I might be able to get the Governor to call an extraordinary term or, in view to call an extraordinary term or, in view of the fact that we cannot get an immediate trial in Albany County, Justice Giegerich trial in Albany County, Justice Giegerich might consent to modify his order sending the case here by transferring it to a county where the People can get an earlier trial

Justice Herrick: "The arrangement I
have suggested is the best for the people
that can be had here before the December
trial term. Between now and Nov. 18, I that can be had here before the December trial term. Between now and Nov. 18. It will be sitting in Columbia and Greene counties and the other Justice is busy. I will adjourn this court until Saturday at noon in order to give District Attorney Philbin an oportunity to see what he can do otherwise, and then will take a further adjournment until Nov. 18, if its desired."

Mr. Cady: "We do not want any un-

Mr. Cady: "We do not want any un-reasonable delay, nor undue haste. I think District Attorney Philbin should consent to the trial going on Nov. 18. I shall be busy in the Columbia county term next week and the court in any event would not sit election week. So nothing can be gained

District Attorney Philbin: "I accept the suggestion of the Court for an adjourn-ment until Saturday. I would also notify get a trial act for Judge Cady that, can I get a trial set for within a few days, I shall ask the Court to have it go on, notwithstanding Mr. Cady's engagements next week in the Columbia county term."

Justice Herrick then postponed a final ecision in the matter until Saturday noon

District Attorney Philbin said last night assured me that he would give me his hearty cooperation. The Governor told me that while he was a strong believer in home while he was a strong believer in home rule, and would prefer not to take any

part in our city government, he would lend me any assistance that was in his power.

"It is not because I wish this trial to come off before election for political purposes, as politics has nothing to do with the case. It is costing the city \$70 a day to keep the witnesses in the case in the city. I do not want the expense to go on any longer than is absolutely necessary."

## EXCISE RULING AFFIRMED.

No Rebate on Certificates Surrendered By a Holder Under Presecution. ALBANY, Oct. 15 .- The Court of Appeals as rendered a decision sustaining the State Excise Department in a proceeding instituted by the Frank Brewery, as as-

signees of a liquor tax certificate issued

to Herman Anderman, of New York, to

ompel the payment or rebate on a surrendered certificate. Anderman was convicted of selling liquers without a liquer tax cerrifloate, but before he was tried for such offence he obtained a certificate, which was afterward surrendered by the assignes. The Department refused to pay rebate on the certificate on the ground that Anderman was under arrest, charged with a vio-lation of the liquor tax law at the time his certificate was surrendered, and conse-

nently was not in position to surrender is certificate for rebate. The Court of Appeals is of the opinion that prosecutions pending at the time of the issuance of a certificate, and which are pending at the time of the surrender of certificates, or within thirty days thereafter, apply with equal force and have the same effect upon the right to the rebate as violations committed after this certificate has been issued

William Loeb, Jr., Engaged.

ALBANY, N. Y., Oct. 15. The engage ment of Miss Katherine Dorr of this city and William Loeb, Jr., also of Albany, is announced. The wedding will take place he latter part of November. Mr. I a President Roosevelt's confidential BIY

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